

2. REMARKS

2.1 STATUS OF THE CLAIMS

Claims 1-29 were pending prior to entry of the present amendment.

Claims 1-29 have been canceled without prejudice or disclaimer.

Claims 30-38 have been added herein.

Claims 30-38 are now pending in the case.

2.2 THE NOTICE OF APPLICANT'S INTENT TO APPEAL WAS PROPER

37 CFR § 41.31(1) provides that every applicant, any of whose claims has been twice rejected, may appeal from the decision of the examiner to the Board by filing a notice of appeal accompanied by the fee set forth in 37 CFR § 41.20(b)(1) within the time period provided under 37 CFR § 1.134 of this title for reply.

To that end, Applicants gave notice of their intent to Appeal in a paper filed on December 18, 2007 after the pending claims were twice rejected in the non-final Office Actions dated December 26, 2006 and June 22, 2007, respectively. Pursuant to 35 USC § 134(a) and MPEP § 1204, the Notice was timely filed within the statutory period for responding to the June 22, 2007 Office Action.

2.3 THE PRESENT AMENDMENT IS TIMELY FILED

37 CFR § 1.116(b)(2) governs Amendment practice after filing a Notice of Appeal, and prior to the filing of the appeal brief itself. The Regulation provides in pertinent part:

“After a final rejection or other final action (37 CFR § 1.113) in an application.....but before or on the same date of filing an appeal under 37 CFR § 41.31 or 37 CFR § 41.61 of this

title, an amendment presenting rejected claims in better form for consideration on appeal may be admitted.”

MPEP § 714 provides that an Applicant may also make amendments to the claims after the date of filing a Notice of Appeal pursuant to 37 CFR § 41.31(a), if the amendment meets the criteria of 37 CFR § 41.33; and when and as specifically required by the examiner.

The two-month shortened statutory period for acting after a Notice of Appeal is given ended on February 18, 2008; however, this date that is extensible by a period of up to five months with a request for an extension of time, and payment of the appropriate surcharge.

The present paper is therefore timely filed on or before March 18, 2008, when accompanied by a Request for an Extension of Time of One Month and payment of the \$60 Extension of Time Fee as set forth in 37 CFR § 1.17(a)(1).

2.4 SUPPORT FOR THE CLAIMS

Support for the pending claims can be found throughout the original claims, specification and figures as filed. It will be understood that no new matter is included within any of the newly-submitted claims.

Support for new claims 30 and 31 can be found in the original specification, and at least on page 6, lines 22-23; page 10, lines 21-31; and in original claims 13, 17, 19, 20 and 22.

Support for newly-added claim 32 can be found throughout the original specification, and claims, and particularly at least on page 6, line 19, and in original claim 11.

Support for new claim 33 can be found throughout the original claims and specification, and at least on page 6, lines 19-21, and in original claim 12.

Support for new claim 34 can be found throughout the original specification and claims, and particularly on page 7, lines 16-20.

Support for new claims 35-38 can be found throughout the original claims and specification, and at least on page 6, lines 26-34; page 14, lines 9-10 and 14-15; as well as in original claims 15 and 16, and Example 1.

Applicants believe that due to the cancellation of other claims, no additional claims fees are necessitated by the entry of these claims; however, should any such fees be deemed necessary, Applicants hereby authorize any additional fees to be deducted from Applicants' Representatives' Deposit Account as noted above.

3. EXAMINER INTERVIEW

3.1 SUMMARY OF INTERVIEW CONDUCTED MARCH 11, 2008

On March 11, 2008, Applicants' undersigned representatives conducted a telephonic interview with Examiner Audet pursuant to 37 CFR § 1.133. During this interview, the pending claims, the rejections advanced by the Office (prior to Examiner Audet's recent assignment to the case), and Applicants' Amendment and Response of December 26, 2007 were all discussed.

In light of this interview, Applicants have presented the accompanying amendment to address various issues previously of record in the matter, and to place the pending claims in condition for allowance, and/or in the alternative, to place the application and pending claims in better condition for appeal, as required under 37 CFR §§ 1.113 and 1.116(b)(2).

MPEP § 713.01(III) ¶ 12 provides that "(w)here agreement is reached as a result of an interview, applicant's representative should be advised that an amendment pursuant to the

agreement should be promptly submitted. If the amendment prepares the case for final action, the examiner should take the case up as special.....”

In light of that directive, Applicants appreciate Examiner Audet’s taking up this matter as “special,” and also acknowledge his full cooperation in completing the examination process for this matter as quickly and as efficiently as possible -- particularly in light of former Examiner Khanna’s departure from the Office.

Additionally, in view of 37 CFR § 1.133, which provides in pertinent part, that “in cases where agreement is reached as a result of an interview, applicant's representative should be advised “that an amendment pursuant to the agreement should be promptly submitted,” Applicants’ undersigned representative has prepared and submitted the present paper with all due diligence.

3.2 CONCLUSION

It is respectfully submitted that pending claims 30-38 are fully enabled by the specification, that all pending claims are definite, and that all claims are free of the cited prior art, or in the alternative, are now placed in better condition for appeal. Applicants incorporate herein by reference all arguments and reasoning presented in the earlier responses on record in the pending matter, and believe that all of the concerns of the Office have been resolved, and that the pending claims are now in condition for allowance. Applicants respectfully request, therefore, the withdrawal of all rejections and that a Notice of Allowance be issued in the case with all due speed.

Applicants again explicitly note for the record their right to re-file claims to one or more aspects of the invention as disclosed in the pending application, in one or more continuing,

divisional, or continuation-in-part application(s), as may be desired, claiming priority to the present application and its predecessors.

Should any issues remain outstanding upon consideration of the present paper and entry of the foregoing amendment, or should the Office have any questions or concerns, a telephone call to the undersigned Applicants' representative at Examiner Audet's convenience is sincerely appreciated.

Respectfully submitted,



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I hereby certify that this correspondence is being filed with the U.S. Patent and Trademark Office via EFS-Web on March 14, 2008


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